

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	Cr. No. 05-00189 DAE
)	
Plaintiff,)	[21 U.S.C. §§ 841 (a) (1)
)	(b) (1) (A), (b) (1) (B),
vs.)	843 (b) and 846, and
)	18 U.S.C. §§ 2, 922(g) (1)
KEITH SEICHI IMAI, (01))	and 924(a) (2) & (c) (1)]
JEFFREY KAMA, (02))	
SHAWNA KAULUKUI, and (03))	
MICHAEL MIYASATO, (04))	
)	
Defendants.)	DECLARATION OF COUNSEL
)	

DECLARATION OF COUNSEL

MYLES S. BREINER, being first duly sworn upon oath, deposes and says on information and belief that:

1. Counsel moves the Court for an order invoking the FRE 615 witness exclusionary rule, and requests the court to give an instruction to the U.S. Attorney and all witnesses for the Government, not to violate the rule.

2. Counsel also requests the court to instruct the U.S. Attorney that all offers of proof during trial be made at the bench and out of the hearing of the jury, pursuant to FRE Rule 103.

3. Counsel further moves the Court to inform the U.S. Attorney that he is expected to comply with all applicable rules of the Code of Professional Responsibility.

4. Counsel further asserts that after reviewing various items of discovery, and

the written statements of prospective Government's witnesses, he believes that inadmissible evidence may be elicited through witnesses, which would violate the Defendant's right to due process of law, his right to confront the witnesses against , his right to a fair trial, and the Federal Rules of Evidence.

5. Counsel therefore requests that this court instruct and order the U.S. Attorney not to elicit such evidence from its witnesses directly, or indirectly through witnesses who "volunteer" or otherwise adduce such inadmissible evidence, upon the pain of a dismissal with prejudice.

6. Counsel further requests that this motion be heard in camera prior to the commencement of trial, because the defendant will suffer irreparable harm should inadmissible evidence be suggested during voir dire, or during opening statements by the Government.

FURTHER, DECLARANT SAYETH NAUGHT.



MYLES S. BREINER